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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-678

13 **ROBERT MATTHEW KIRBY**
65317 Highway 22
Roanoke, AL 36274

ACCUSATION

14 **Registered Nurse License No. 726182**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 8, 2008, the Board of Registered Nursing issued Registered Nurse
23 License Number 726182 to Robert Matthew Kirby (Respondent). The Registered Nurse License
24 expired on August 31, 2009, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 118, subdivision (b) of the Code states:

2 " The suspension, expiration, or forfeiture by operation of law of a license issued by a board
3 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
4 of a court of law, or its surrender without the written consent of the board, shall not, during any
5 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
6 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
7 provided by law or to enter an order suspending or revoking the license or otherwise taking
8 disciplinary action against the licensee on any such ground."

9 5. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
10 any licensee, including a licensee holding a temporary or inactive license, for any reason provided
11 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

12 6. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the following:

16 ...

17 (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
18 against a health care professional license or certificate by another state or territory of the United
19 States, by any other government agency, or by another California health care professional
20 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
21 action.

22 ... "

23 7. Section 2764 of the Code also provides, in pertinent part, that the expiration of a
24 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
25 against the licensee or to render a decision imposing discipline on the license. Under Section
26 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within
27 eight years after the expiration.
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1 2. Ordering Robert Matthew Kirby to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

February 27, 2013

for Stacie Bern
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A



ALABAMA BOARD OF NURSING

RSA Plaza, Ste 250
770 Washington Ave
Montgomery, AL 36104

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N. Genell Lee, MSN, RN, JD
Executive Officer
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BEFORE THE ALABAMA BOARD OF NURSING

STATE OF ALABAMA)

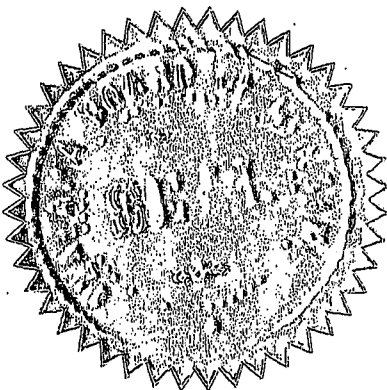
MONTGOMERY COUNTY)

I, N. GENELL LEE, RN, MSN, JD, Executive Officer of the Alabama Board of Nursing, do hereby certify that I am the legal Custodian of Records for the Alabama Board of Nursing and that the attached document in reference to **ROBERT MATHEW KIRBY** as it appears of record and on file in my office at Suite 250, RSA Plaza, 770 Washington Avenue in the City of Montgomery, County of Montgomery, State of Alabama, that the laws of the State require said records be kept and that the same are true and correct copies of said originals.

WITNESS my hand and seal of the Alabama Board of Nursing on this 7th day of June 2012.

ALABAMA BOARD OF NURSING

N. GENELL LEE, RN, MSN, JD
EXECUTIVE OFFICER



BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:

ROBERT MATTHEW KIRBY

VOLUNTARY SURRENDER

LICENSE NO. 1-111532

CASE NUMBER: 2011-1047

The undersigned holder of licensure to practice nursing in the State of Alabama, pursuant to § 610-X-8-.05(4) of the Alabama Board of Nursing Administrative Code hereby freely, knowingly and voluntarily surrenders said license to the Alabama Board of Nursing. I further understand that this surrender shall have the same effect as a revocation of my license, and I knowingly forfeit and relinquish all right, title and privilege of practicing nursing in the State of Alabama, unless and until such time as my license may be reinstated.

I understand that I have a right to a hearing in this matter, and I hereby freely, knowingly and voluntarily waive such right. I also understand that should any request for reinstatement be entertained by the Alabama Board of Nursing, the Alabama Board of Nursing shall have access to the entire investigative file in this matter.

I further acknowledge that the only promises or representations made to me by the Alabama Board of Nursing or its representatives are that upon receipt of proper proof and evidence of my rehabilitation, the Alabama Board of Nursing will give due consideration to an application for reinstatement of license at such time as is allowed by law. I fully understand that as a condition for reinstatement, I must demonstrate to the satisfaction of the Alabama Board of Nursing that I am capable of safely and competently resuming the practice of nursing in accordance with the laws of the state of Alabama.

This voluntary surrender shall become effective immediately upon acceptance thereof by the Alabama Board of Nursing. I understand that this document will be considered to be a public record entered as the final disposition of disciplinary proceedings presently pending against me, that this action shall be considered to be and may be recorded as a Final Order of the Board, and that this action will be reported as a disciplinary action to the Healthcare Integrity Protection Databank, the Office of Inspector General of the United States Department of Health and Human Services, and the National Council of State Boards of Nursing.

EXECUTED this the 12 day of April 2011

ROBERT MATTHEW KIRBY

APPROVED AND ACCEPTED by the ALABAMA BOARD OF NURSING on this the 14th day of April 2011

ALABAMA BOARD OF NURSING

JENNIFER LEE, RN, MSN, JD
EXECUTIVE OFFICER